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6 **BRIAN BEST,**
7 Plaintiff,
8 vs.
9 **VIRGIL SMITH**
10 Defendant.

CASE No. 4:19-cv-2252-YGR
**ORDER DENYING SECOND MOTION FOR
RECONSIDERATION**
Dkt. No. 234

11 Pending before the Court is plaintiff Brian Best's Second Motion for Reconsideration.
12 (Dkt. No. 234.)

13 The motion largely attempts to relitigate issues already decided. (*See* Dkt Nos. 205, 206.)
14 The only new argument that plaintiff raises is the timeliness of his first motion for reconsideration
15 under Rule 59(e). Even liberally construing and accepting plaintiff's reasons for missing the 28-
16 day deadline under Rule 59(e), plaintiff fails to establish that relief is warranted under Rule 59(e)
17 because plaintiff merely rehashes prior arguments. Rule 59(e) "may not be used to relitigate old
18 matters, or to raise arguments or present evidence that could have been raised prior to the entry of
19 judgment." *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 485 n.5 (2008) (citation omitted).

20 Therefore, the motion is **DENIED**.

21 Again, plaintiff is warned that further frivolous filings may be summarily denied and
22 result in the termination of his ECF privileges without further notice. Indeed, he has been
23 warned two times that improper filings may result in termination of his ECF privileges. (Dkt.
24 Nos. 223 & 233.)

25 This Order terminates Docket No. 234.

26 **IT IS SO ORDERED.**

27 Dated: October 25, 2022

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YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE